



Department of Defense
INSTRUCTION
AD-A271 937



July 11, 1986
NUMBER 5505.3

IG, DoD

SUBJECT: Initiation of Investigations by Military Criminal Investigative Organizations

- References:
- (a) DoD Directive 5106.1, "Inspector General of the Department of Defense," March 14, 1983
 - (b) Secretary of Defense Memorandum, May 17, 1985, Untitled, (In re: No prior command request policy throughout DoD)
 - (c) Public Law 99-145, "Department of Defense Authorization Act," Section 1223, November 8, 1985
 - (d) DoD Directive 7050.5, "Coordination of Remedies for Fraud and Corruption Related to Procurement Activities," June 28, 1985
 - (e) DoD Instruction 5505.2, "Criminal Investigations of Fraud Offenses," June 20, 1985

A. PURPOSE

This Instruction, issued under the authority of reference (a), implements the provisions of references (b) and (c) to ensure the independence, objectivity, and effectiveness of the military criminal investigative organizations.

B. APPLICABILITY

The provisions of this Instruction apply to the Inspector General, DoD, the Military Departments and the Defense Agencies.

C. DEFINITIONS

1. Commander. Any commanding officer, installation commander, or other appropriate command authority, or civilian supervisor in a comparable position, who is outside a military criminal investigative organization and is authorized to request an investigation or act on the results of an investigation by a military criminal investigative organization.

2. Military Criminal Investigative Organizations. These include the U.S. Army Criminal Investigation Command, the Naval Security and Investigative Command, and the Air Force Office of Special Investigations.

D. POLICY

1. The commanders of the military criminal investigative organizations and their subordinate commanders shall be authorized to initiate criminal investigations. The military criminal investigative organizations shall not be required to solicit nor shall they solicit from commanders outside the military criminal investigative organizations requests or authorizations to

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initiate investigations. This does not preclude discussions with commanders concerning initiation of a criminal investigation, as set forth at subsection D.6. However, in each case the decision to initiate a criminal investigation remains with the criminal investigative organization. Any commander or the Inspector General, DoD (IG,DoD), pursuant to DoD Directive 5106.1 (reference (a)), may request the military criminal investigative organizations initiate criminal investigations in addition to investigations initiated by the investigative organizations.

2. Only the Secretary of a Military Department, or as specified in subsection D.3., the IG, DoD, may direct a military criminal investigative organization to delay, suspend, or terminate an investigation.

3. Only the IG, DoD, may direct a military criminal investigative organization to delay, suspend or terminate an investigation being conducted at the request of the IG, DoD, pursuant to reference (a).

4. Commanders outside the military criminal investigative organizations shall not impede the use of investigative techniques permissible under law or regulation, which the military criminal investigative organizations consider necessary.

5. Where military criminal investigative organizations require resources, personnel, or facilities not under their command or control to accomplish their mission, coordination is required through normal command and resource processes.

6. The military criminal investigative organizations shall advise appropriate commanders of the initiation and status of investigations, in accordance with the provisions of DoD Directive 7050.5 (reference (d)), DoD Instruction 5505.2 (reference (e)), and applicable regulations of the Military Department concerned.

E. RESPONSIBILITIES

The Secretaries of the Military Departments and the Heads of the Defense Agencies shall issue regulations implementing this Instruction.

F. PROCEDURES

1. When a commander outside the military criminal investigative organization objects to the opening of a criminal investigation for operational or other reasons, that commander shall report the circumstances immediately via the chain of command to the Secretary of the Military Department concerned.

a. Investigations initiated by a military criminal investigative organization. The Secretary of the Military Department shall promptly decide as to whether the investigation will be discontinued. No investigation shall be delayed or suspended while this process is ongoing, except by decision of the Secretary of the Military Department concerned. Intermediate commanders may make a final resolution of these matters if such resolution overrules the objecting commander. The Secretaries of the Military Departments shall promptly report to the IG, DoD, the facts in all cases brought to them for resolution and their decision in each instance.

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b. Investigations initiated by or at the request of the IG, DoD. When an investigation by a military criminal investigative organization has been requested by the IG, DoD, the Secretary of a Military Department shall promptly refer to the IG, DoD, any request brought to the Secretary to delay or discontinue such investigation. The IG, DoD, shall make a prompt decision on these matters and inform the Secretary of the Military Department concerned.

2. The commanders of the military criminal investigative organizations shall promptly report via their chain of command to the Secretary of the Military Department concerned, the facts in all situations where attempts are made to impede the use of investigative techniques in violation of subsection D.4.

a. Investigations initiated by a military criminal investigative organization. The Secretary of the Military Department concerned shall promptly resolve these matters and provide the IG, DoD, with a copy of the report and the resolution of all such cases brought to the Secretary.

b. Investigations initiated by or at the request of the IG, DoD. The Secretary of the Military Department concerned shall promptly provide a copy of the report to the IG, DoD. Such matters shall be resolved by the IG, DoD, and the Secretary of the Military Department concerned.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward one copy of implementing documents to the Inspector General, DoD, within 90 days.

William H. Taft, IV
Deputy Secretary of Defense

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